MONTANA LEGISLATIVE HISTORY

Chapter 489 19 79

Bill H 532 S _____ Original bill & history ____C

H. Committee on Education			S. Committee on Education		
Hearing Date(s)	Feb 16	✓ C	Hearing Date(s)	Mar 12	✓ C
		____C		Mar 16	✓ C
		____C			____C
		____C			____C
Date Out	Feb 16	✓ C		Mar 19	✓ C

BEST COPY AVAILABLE

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

INTRODUCED BY House BILL NO. 532
Magone Galvin-Halcro Daily Harrington Cerry Zinke
Johnson Menahan Billings McBride

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE DISQUALIFICATION OF A COUNTY SUPERINTENDENT FROM HEARING MATTERS OF CONTROVERSY UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR APPOINTMENT OF ANOTHER COUNTY SUPERINTENDENT BY THE SUPERINTENDENT OF PUBLIC INSTRUCTION; AUTHORIZING PAYMENT OF NECESSARY AND PROPER EXPENSES BY THE COUNTY IN WHICH THE CONTROVERSY WAS INITIATED; AND AMENDING SECTION 20-3-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Disqualification of county superintendent. A county superintendent may not hear or decide matters of controversy pursuant to 20-3-210 when:

(1) he is a party to or has an interest in the controversy;

(2) he is related to either party in the controversy by consanguinity or affinity within the sixth degree, computed according to the rules of law; or

(3) either party to the controversy makes and files with the superintendent of public instruction an affidavit that he has reason to believe and does believe that he cannot have a fair and impartial hearing before the county superintendent by reason of the bias or prejudice of the county superintendent.

NEW SECTION. Section 2. Superintendent of public instruction to appoint another county superintendent. (1) When a county superintendent is disqualified pursuant to [section 1], the superintendent of public instruction must appoint another county superintendent to hear and decide the matter of controversy arising pursuant to 20-3-210.

(2) The county superintendent appointed pursuant to subsection (1) must be reimbursed for all necessary and proper expenses incurred by the county in which the controversy was initiated.

Section 3. Section 20-3-210, MCA, is amended to read:

"20-3-210. Controversy appeals and hearings. (1) ~~The~~ Except as provided under [section 1] the county superintendent shall hear and decide all matters of controversy arising in his county as a result of decisions of the trustees of a district in the county. When appeals are made under 20-4-204 relating to the termination of services of a tenure teacher or under 20-4-207 relating to the dismissal of a teacher under contract, the county superintendent may appoint a qualified attorney at law to act as a legal adviser who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently, either the teacher or trustees may appeal to

the superintendent of public instruction under the provisions for appeal of controversies in this title. Furthermore, he shall hear and decide all controversies arising under:

(a) section 20-5-304 or 20-5-311 relating to the approval of tuition applications; or

(b) any other provision of this title for which a procedure for resolving controversies is not expressly prescribed.

(2) The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. He shall prepare a written transcript of the hearing proceedings. The decision on the matter of controversy which is made by the county superintendent shall be based upon the facts established at such hearing.

(3) The decision of the county superintendent may be appealed to the superintendent of public instruction, and if it is appealed, the county superintendent shall supply a transcript of the hearing and any other documents entered as testimony at the hearing to the superintendent of public instruction."

-End-

There were no opponents of House Bill 460 present. The committee was allowed to question the witnesses and the hearing was closed.

Representative Donaldson was asked by Chairman Gilligan to explain to the committee House Bill 718. Representative Donaldson told the committee this bill clarifies the compulsory enrollment and attendance provisions of school law to make it clear that the compulsory provisions apply until a child reaches his sixteenth birthday.

Proponents of the bill were:

Bob Stockton, Administrator, Department of Financial Services, Office of Public Instruction, Helena, Mt. - Mr. Stockton told the committee this bill had been introduced at the request of the Office of Public Instruction to simply clarify the present law regarding compulsory attendance provisions of school law.

There were no opponents of the bill present. The committee was allowed to question the witnesses and the hearing on House Bill 718 was closed.

Chairman Gilligan requested Representative Pavlovich to explain to the committee House Bill 532. Representative Pavlovich told the committee HB 532 is an act to provide for the disqualification of a county superintendent from hearing matters of controversy under certain circumstances and provides for appointment of another county superintendent by the county superintendent of schools and authorizes payment of necessary and proper expenses by the county in which the controversy was initiated. Amendments were submitted.

Proponents of the bill were:

Pat Price, Montana Association of County School Superintendents, 501 N. Sanders, Helena, Mt. - Ms. Price stated, "The primary purpose of this bill as amended, is to allow County Superintendents to disqualify themselves as hearing officers, which is adequately covered in section 1, subsections 1 and 2. The addition of the new section, under section 3, clarifies the dilemma of how hearings will be paid for in the resident county of the County Superintendent when the appeal is made." (For complete written testimony, See Exhibit 4)

Lyle Eggum, Co-Director, Department of Basic Instructional Services, Office of Public Instruction, Helena, Mt. - Mr. Eggum told the committee that OPI supports the bill as amended. "The amendments reserve the State Superintendent's neutral position to hear appeals of dicisions made as a result of these hearings." (See Exhibit 5)

Chad Smith, Montana School Boards Association, Helena, Mt. - Mr. Smith reiterated statements made previsously and told the committee that MSBA strongly support this bill.

There were no opponents of House Bill 532 present. The amendments to House Bill 532 submitted by Representative Pavlovich are attached. (See Exhibit 6) The committee was allowed to question the witnesses and the hearing was closed.

Chairman Gilligan requested Representative Metcalf to explain to the committee House Bill 675(an act to create the Montana Folklife Project under the Montana Arts Council to preserve and present Montana Folklife and to prescribe powers and duties of the Montana Folklife Project). Representative Metcalf told the committee this hearing dealt only with passage of the concept of the bill. The Appropriations Committee would re-hear the bill and determine funding. Representative Metcalf handed-out to the committee a copy of the Oregon Folklife Festival booklet. (See Exhibit 7)

Proponents of the bill were:

Shirley Cleary, 2102 E.Sixth Ave., Helena, Mt. - (Montana Arts Council Board Member) - Ms. Cleary told the committee her organizatior supports this bill and urges passage. (See Exhibit 8)

Sister Joeann Daley, 709 E. Third, Anaconda, Mt. - (Montana Arts Advocacy and Montana Institute of the Arts Foundation) - Sister Daley urged the committee to pass this bill. (See Exhibit 9)

David Nelson, 800 Ronald, Missoula, Mt. (Representing the Montana Arts Council) - Mr. Nelson told the committee, "This is very important and timely". (See Exhibit 10)

J.D. Holmes, Montana Institute of the Arts Foundation, Helena, Mt. - Mr. Holmes urged the committee to pass this bill and gave several reasons why Montana would benefit from a Folklife Project. (See Exhibit 11)

Written testimony in support of House Bill 675 was received from Curt Johnson, 1008 11th Ave., Helena, Mt., representing the Montana Student Lobby. (See Exhibit 12)

There were no opponents of House Bill 675 present. The committee was allowed to question the witnesses and the hearing was closed.

Chairman Gilligan requested Representative Ramirez to explain to the committee House Bill 383 (an act to require approval of the trustees of a receiving school district before a transfer of territor from another school district can be made).

Proponents of the bill were:

Leonard H. Sargent, Executive Director, Montana School Boards Association, 501 N. Sanders, Helena, Mt. - "MSBA stands in support of HB 383. The bill makes one change in existing law relating to transfer of territory from one elementary district to another. We are asking that a school board which is to receive such transfer

Representative Uhde moved to AMEND House Bill 191. The motion carried with Representatives Lund and Oberg voting no. Representative Uhde moved that HOUSE BILL 191, AS AMENDED, DO PASS. The motion carried with Representative Oberg voting no.

Representative Lory moved that HOUSE BILL 532 DO PASS. The motion carried with Representative Oberg voting no.

Representative Reichert moved that HOUSE BILL 675 DO PASS. The motion carried with Representatives Kvaalen and Oberg voting no.

Representative Oberg moved that HOUSE BILL 674 DO PASS. The motion carried with Representatives Eudaily, Lund, Nordvedt, Porter and Anderson voting no.

Representative Lory moved that HOUSE BILL 428 DO PASS. The motion carried with Representative Oberg voting no.

Representative Lory moved that HOUSE BILL 383 DO PASS. The motion carried unanimously.

Representative Lund moved that HOUSE BILL 718 DO PASS. The motion carried with Representative Nordtvedt voting no.

Representative Magone moved the committee AMEND House Bill 460 striking, "previous" and inserting "current" to eliminate the time lag in determining eligibility for foundation program funds. The motion carried unanimously. Representative Magone moved HOUSE BILL 460 AS AMENDED, DO PASS. The motion carried unanimously.

Representative Lory moved that HOUSE BILL 763 DO PASS. The motion carried unanimously.

The meeting adjourned at 2:30 p.m.

Peter J. Gilligan, Jr.

Peter J. Gilligan, Jr., Chairman

MJW

said she has been impressed with the many facets of Montana life and folklore. The project is essential to documenting the various historical lifestyles of the many communities in Montana. She felt it is most necessary to have professional help to accomplish this.

David Nelson, Executive Director of the Montana Arts Council, said the bill represents an extreme amount of work with the Library of Congress. He stated the living historical information is seldom recorded and those people who know it are getting older and we are losing much of our oral history with them. He said we have vast collections of artifacts and the collections of oral and living history should be as well collected and preserved.

J.D. Holmes, representing the Montana Institute of the Arts Foundation, stated that organization's support for the bill. He said such a program will expand the knowledge of our state's cultural heritage. We need to document our musical, occupational, and recreational history and this bill is a good means of doing it.

There being no further proponents and no opponents to the bill, the hearing was closed on House Bill 675.

HOUSE BILL 532 REPRESENTATIVE PAVLOVICH

Representative Pavlovich, sponsor, stated this bill allows the county superintendent to be disqualified or disqualify themselves from a hearing, to appoint another superintendent to preside in their place, and to allow for payment of expenses.

PROPONENTS

Pat Price, representing the Montana Association of County School Superintendents, presented her written testimony in support of the bill to the committee (attachment #2).

Lyle Eggum, representing the Office of Public Instruction, presented his written testimony in support of the bill to the committee (attachment #3).

Theresa Love, Townsend, County Superintendent of Schools, presented her written testimony in support of the bill to the committee (attachment #4).

Chad Smith, representing the Montana School Boards Association, stated this revision has been needed for some time. There has existed the possibility for bias or conflict of interest. He said this legislation would parallel the district judge procedure for disqualification. He noted the Superintendent of Public Instruction should not be the person to choose the hearing officer in the case of a disqualification, as she is the next level of appeal.

Fred Bull, County Superintendent of Schools, Butte, urged support of the bill.

There being no further proponents and no opponents, the hearing was closed on House Bill 532.

HOUSE BILL 473 REPRESENTATIVE ROSENTHAL

Representative Rosenthal, sponsor of the bill, stated the bill defines members of the armed forces assigned to stations in Montana, their spouse and dependent children as residents for the purposes of attending units of the University system or post-secondary vocational-technical centers. The tuition fees would be the same as for residents of the state.

He presented a letter in support of the bill from Georgia Rice, Superintendent of Public Instruction (attachment # 5).

Representative Rosenthal also presented a statistical compilation of information regarding residency determination for tuition purposes in other states (attachment #6).

He stated Malmstrom Air Force Base generates $200 million into the economy of Great Falls each year or 42-48% of the total economy of the city. Many military personnel and their dependents are working part or full time jobs off base which generates tax dollars for the state. He felt the passage of the bill would not create a great rush to the university system units or vo-tech centers. It, however, would benefit the family just coming into the state with children who are seniors in high school.

John Bell, representing himself as a taxpayer, said this is a good bill. He pointed out the Legislature has been traditionally generous to military personnel and it has paid off. Many military people are retiring in Montana and this is a little more inducement for them to stay - especially senior officers who will soon be retiring.

Date 3/12/79

ROLL CALL

EDUCATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
Sen. Bob Brown, Chairman			
Sen. Ed Smith, Vice Chairman	X		
Sen. Jesse O'Hara	X		
Sen. George McCallum	X		
Sen. Elmer Severson	X		
Sen. Mike Anderson	X		
Sen. Chet Blaylock	X		
Sen. Larry Fasbender	X		
Sen. Richard Smith	X		
Sen. Bill Thomas	X		

Each Day Attach to Minutes.

DATE March 22, 1977

COMMITTEE ON EDUCATION

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support / Oppose
Theresa L. Lee	Cascade County Superintendent of Schools	S.B. 44	✓
Leslie Eaton	Office of Public Instruction	HB 552	✓
Dan Flaherty	Self	HB 552	✓
John Kelly	self	H.B. 473	✓
[illegible]	M.E.A.	[illegible]	✓
Wayne Buchanan	MSBA	HB 552	✓
Richard Smith	M.S.U. Rep. Coop.	HB 552	✓
Pat Drain	Mt. Assn. Co. School Supts.	HB 552	✓
Richard Daley	Montana Arts Advocacy	HB 675	✓
Joanne Baumgartner	Montana Arts Council	HB 675	✓
Shirley Murphy	Montana Art Council Member	HB 675	✓
J. D. Holmes	MT. Institute of the Arts Foundation	HB 675	✓
Dan E. Nelson	Montana Arts Council	HB 675	✓
Bob Stratton	OSPI	HB 108	✓
Paul Hall	Co Supt - Butte	HB 552	✓

SENATE EDUCATION COMMITTEE
March 12, 1979

HOUSE BILL 473 REPRESENTATIVE ROSENTHAL

This bill expands the definition of resident for tuition purposes. A member of the armed forces of the United States assigned to and residing in Montana, his spouse, or his dependent children are included in the definition of resident student. Thus, by making military residents and their families residents of Montana, tuition payments for them are waived at the university sytem and at post-secondary vocational-techinical education centers.

HOUSE BILL 532 REPRESENTATIVE PAVLOVICH

House Bill 532 provides for the disqualification of county superintendents from hearings in certain cases, appointment of the disqualified superintendent's replacement in such hearing, and the proper payment of expenses of the hearing. The county superintendent is disqualified from a hearing when he has an interest, or is related to either party through either marriage or family ties, or if either party in the hearing feels the superintendent is biased or prejudiced against him. When a superintendent is disqualified, he must appoint another county superintendent to hear the case. The cost incurred for the hearing is borne by the county in which the hearing occurred.

HOUSE BILL 548 REPRESENTATIVE HARPER

House Bill 548 clarifies the definition of benefit year for unemployment compensation after the initial year of receiving such compensation. In existing law, it is confusing as to when a benefit year ends after the initial 52 consecutive week requirement for unemployment benefits is fulfilled. The proposed legislation pinpoints the end of the initial benefit year, the commencement of the subsequent benefit year, and specifies that benefits for subsequent benefit years may not be received until expiration of the current benefit year.

HOUSE BILL 675 REPRESENTATIVE METCALF

House Bill 675 creates the Montana Folklife Project. The purpose of the project is to preserve and study traditional customs and culturally based expressions of ranching, farming, logging, mining, trapping, exploration, Indian culture, and cowboy life. The project would have authority to accept gifts, grants, and other forms of assets donated to the project; enter into contracts with and award grants to various people and groups; research customs and other traditions; and cooperate with other Montana agencies or groups interested in Folklife heritage.

Theresa I. Love
County Superintendent of Schools
Broadwater County
Townsend, Montana 59644

March 12, 1979

TO: Senate Education Committee

RE: FOR H.B. 532

FROM: Theresa I. Love
County Superintendent

I am in support of H.B. 532 in that there are times when a local county superintendent may be too involved with the controversy. The county superintendent may have evaluated the teacher or may be well acquainted with the party involved which could result in prejudice.

To safeguard the appeal process, I feel that it would be best to be able to disqualify yourself.

SENATE EDUCATION COMMITTEE

March 16, 1979

The Senate Education Committee met Friday, March 16, 1979, in Room 402 of the Capitol Building. The meeting was called to order by Senator Bob Brown, Chairman, at 12:00 p.m. for executive session, the hearing to begin at 1:00 p.m. Committee members present were Senators Brown, Ed Smith, Thomas, O'Hara, Richard Smith, Anderson, Severson, Fasbender, McCallum, and Blaylock.

EXECUTIVE SESSION

Senator Brown asked the committee's opinion on changing the name of the committee to the Senate Committee on Education and Cultural Resources. The committee agreed to ask the Rules Committee to consider the name change as the House Committee has also changed theirs and it would widen the latitude of the committee deliberations.

HOUSE BILL 516

Senator Fasbender moved House Bill 516 Be Not Concurred In. The motion carried unanimously with Senator Blaylock absent.

HOUSE BILL 460

Senator Fasbender moved to amend the bill as per the attached committee report (attachment #1). The motion carried unanimously with Senator Blaylock absent.

Senator Severson moved House Bill 460 Be Concurred In As Amended. The motion carried unanimously with Senator Blaylock absent.

HOUSE BILL 473

Senator Fasbender moved House Bill 473 Be Concurred In. The motion carried unanimously with Senator Blaylock absent.

HOUSE BILL 532

Senator Fasbender moved House Bill 532 be amended as per the attached committee report (attachment #2). The motion carried unanimously with Senator Blaylock absent.

Senator McCallum moved House Bill 532 Be Concurred In As Amended. The motion carried unanimously with Senator Blaylock absent.

Senator Blaylock joined the meeting.

HOUSE BILL 675

Senator Thomas moved House Bill 675 Be Concurred In.

STANDING COMMITTEE REPORT

March 13, 19 79

MR. President

We, your committee on Education

having had under consideration HOUSE Bill No. 532

Pavlovich (McCallum)

Respectfully report as follows: That House Bill No. 532 third reading bill, be amended as follows:

1. Page 2, lines 12 through 14.
Following: "(2)"
Strike: remainder of lines 12 through "by the" on line 14
Insert: "The"

2. Page 2, line 15.
Following: "initiated"
Insert: "shall reimburse the county served by the county superintendent appointed pursuant to subsection (1) for actual costs of travel, room, and board as a result of the appointment. Each county superintendent is entitled to expenses as provided in 20-3-270(1)"

3. Page 4, line 3.
Following: "BE"
Strike: "PAID BY"
Insert: "paid from the general fund budget of"

DO PASS

continued

STATE PUB. CO.
Helena, Mont.

Chairman

4. Page 4, line 4.
Strike: "~~DURING OCCURRED~~"
Insert: "controversy is initiated"

And, as so amended, ~~BE CONSIDERED IN~~

P.M.

HOUSE BILL NO. 532

INTRODUCED BY PAVLOVICH, DAILY, HARRINGTON, COONEY, QUILICI, MAGONE, JOHNSTON, MENAHAN, GILLIGAN, McBRIDE

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE DISQUALIFICATION OF A COUNTY SUPERINTENDENT FROM HEARING MATTERS OF CONTROVERSY UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR APPOINTMENT OF ANOTHER COUNTY SUPERINTENDENT BY THE ~~SUPERINTENDENT---OF---PUBLIC---INSTRUCTION~~ COUNTY SUPERINTENDENT OF SCHOOLS; AUTHORIZING PAYMENT OF NECESSARY AND PROPER EXPENSES BY THE COUNTY IN WHICH THE CONTROVERSY WAS INITIATED; AND AMENDING SECTION 20-3-210, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Disqualification of county superintendent. A county superintendent may not hear or decide matters of controversy pursuant to 20-3-210 when:

(1) he is a party to or has an interest in the controversy;

(2) he is related to either party in the controversy by consanguinity or affinity within the sixth degree, computed according to the rules of law; or

(3) either party to the controversy makes and files with the ~~superintendent--of--public--instruction~~ COUNTY SUPERINTENDENT OF SCHOOLS an affidavit that he has reason to believe and does believe that he cannot have a fair and impartial hearing before the county superintendent by reason of the bias or prejudice of the county superintendent.

NEW SECTION. Section 2. ~~Superintendent----of---public instruction~~ THE COUNTY SUPERINTENDENT to appoint another county superintendent. (1) When a county superintendent is disqualified pursuant to [section 1], ~~the superintendent--of public--instruction~~ THAT COUNTY SUPERINTENDENT must appoint another county superintendent to hear and decide the matter of controversy arising pursuant to 20-3-210.

(2) ~~The--county--superintendent--appointed-pursuant-to subsection-(1)-must-be--reimbursed--for--all--necessary--and proper--expenses--incurred--by--the~~ THE county in which the controversy was initiated SHALL REIMBURSE THE COUNTY SERVED BY THE COUNTY SUPERINTENDENT APPOINTED PURSUANT TO SUBSECTION (1) FOR ACTUAL COSTS OF TRAVEL, ROOM, AND BOARD AS A RESULT OF THE APPOINTMENT. SUCH COUNTY SUPERINTENDENT IS ENTITLED TO EXPENSES AS PROVIDED IN 20-3-203(1).

Section 3. Section 20-3-210, MCA, is amended to read:

"20-3-210. Controversy appeals and hearings. (1) ~~The~~ Except as provided under [section 1] the county superintendent shall hear and decide all matters of controversy arising in his county as a result of decisions of the trustees of a district in the county. When appeals

REFERENCE BILL

are made under 20-4-204 relating to the termination of services of a tenure teacher or under 20-4-207 relating to the dismissal of a teacher under contract, the county superintendent may appoint a qualified attorney at law to act as a legal adviser who shall assist the superintendent in preparing findings of fact and conclusions of law. Subsequently, either the teacher or trustees may appeal to the superintendent of public instruction under the provisions for appeal of controversies in this title. Furthermore, he shall hear and decide all controversies arising under:

(a) section 20-5-304 or 20-5-311 relating to the approval of tuition applications; or

(b) any other provision of this title for which a procedure for resolving controversies is not expressly prescribed.

(2) The county superintendent shall hear the appeal and take testimony in order to determine the facts related to the controversy and may administer oaths to the witnesses that testify at the hearing. He shall prepare a written transcript of the hearing proceedings. The decision on the matter of controversy which is made by the county superintendent shall be based upon the facts established at such hearing.

(3) The decision of the county superintendent may be

appealed to the superintendent of public instruction, and if it is appealed, the county superintendent shall supply a transcript of the hearing and any other documents entered as testimony at the hearing to the superintendent of public instruction.

(4) COST INCURRED BY THE OFFICE OF THE COUNTY SUPERINTENDENT SHALL BE ~~BORNE BY~~ PAID FROM THE GENERAL FUND BUDGET OF THE COUNTY IN WHICH THE ~~HEARING OCCURRED~~ CONTROVERSY IS INITIATED."

-End-